

UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

SALVADOR BERNAL, SR.,	§	
Individually and as Next Friend	§	
of SALVADOR BERNAL, JR., a	§	
Minor, DANIEL BERNAL, a Minor,	§	
JOANNA BERNAL, a Minor, OLGA	§	
BERNAL, and MARTIN CARRANCO,	§	
SR.	§	
Plaintiffs,	§	Civil Action No.: 3:16-cv-677
	§	
v.	§	
	§	
TRANSPORTATION SERVICES,	§	
INC. d/b/a T.S.I., and JUAN	§	
DIEGO HERNANDEZ	§	
Defendants.	§	

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendants, Transportation Services, Inc. d/b/a T.S.I. and Juan Diego Hernandez, by and through their counsel of record and pursuant to 28 U.S.C. § 1332(a), respectfully submit this Notice of Removal, removing the above-entitled lawsuit from the 354th Judicial District Court, Hunt County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division. Removal is proper on the following grounds:

1. On February 2, 2016, Plaintiffs, Salvador Bernal, Sr., Individually and as Next Friend of Salvador Bernal, Jr., a Minor, Daniel Bernal, a Minor, Joanna Bernal, a Minor, Olga Bernal and Martin Carranco, Sr. ("Plaintiffs"), commenced an action against Transportation Services, Inc. d/b/a T.S.I. ("TSI") and Juan Diego Hernandez ("Hernandez") (TSI and Hernandez are referred to herein collectively as "Defendants"), in the 354th Judicial District Court, Hunt County, Texas. *See Exhibit B-1.*¹

¹ Defendants' exhibits referenced herein are filed separately in their Appendix in Support of Defendants' Notice of Removal. *See* ECF No. 2.

2. Plaintiffs' Original Petition, Jury Demand, Request for Disclosure and Rule 193.7 Notice ("Petition") in the state court proceeding was served on TSI's registered agent on February 11, 2016. *See Exhibit B-2*. Hernandez was served pm February 12, 2016. *See Exhibit B-3*.

3. Defendants each filed their Original Answer in the State Court proceeding on February 24, 2016. *See Exhibit B-4 and B-5*.

4. No other pleadings are on file with the clerk of the state court and the state court has entered no orders in this action. *See Exhibit A*. No hearings are set in the state court action.

5. Removal of this action is permitted pursuant to 28 U.S.C. § 1332(a), since there is complete diversity between the parties that existed both at the time the lawsuit was filed and at the time of removal, as set forth below:

- a. According to the Petition, Plaintiffs are citizens of the State of Illinois. *See Exhibit B-1*, p.2.
- b. Defendant Transportation Services, Inc., d/b/a T.S.I. is a Delaware corporation with its principal place of business in the State of Michigan. *See Exhibit B-1*, p.2; *Exhibit D*.
- c. Defendant Juan Diego Hernandez ("Hernandez") is a citizen of the State of Texas, resides in Laredo, Texas, and maintains a Texas driver's license. *See Exhibit B-1*, pp.2-3.
- d. The amount in controversy exceeds \$75,000.00, excluding interest and costs, as Plaintiffs contends their damages exceed \$100,000, as stated in the Petition. *See Exhibit B-1*, p.1.

6. Defendants filed their Notice of Removal timely under 28 U.S.C. § 1446(b), being made within 30 days of receipt, through service or otherwise, of the initial pleadings setting forth Plaintiffs' claims for relief upon which this action is based. *See Exhibits B-2 and B-3.*

7. Venue in this Division is proper under 28 U.S.C. § 1446(a) as the 354th Judicial District Court, Hunt County, Texas, is located within the United States District Court for Northern District of Texas, Dallas Division.

8. There are only two defendants; therefore, consent to the removal of this case to Federal Court by any other defendant is not necessary.

9. Both Plaintiff and Defendants demanded a jury trial in the state court suit. *See Exhibits B-1, B-4 and B-5.*

10. Pursuant to 28 U.S.C. § 1446(a), Defendants have attached all the State Court process, pleadings, and orders served upon them, excluding the discovery requests included in Plaintiffs' Original Petition. Attached in the supporting appendix, in accordance with Rule 81.1(a)(3) of the Local Rules of the United States District Court of the Northern District of Texas, and incorporated herein by reference herein are the following attachments:

- *Exhibit A:* A copy of the Docket Sheet for Cause No. 82883, in the 354th Judicial District Court, Hunt County, Texas.
- *Exhibit B:* An index of documents filed in Cause No. 82883, in the 354th Judicial District Court, Hunt County, Texas, arranged in chronological order according to the state court file date, followed by the referenced documents.

Exhibit B-1: Plaintiffs' Original Petition, Jury Demand, Request for Disclosure and Rule 193.7 Notice.

Exhibit B-2: Citation for TSI

Exhibit B-3: Affidavit of Service and Citation for Hernandez

Exhibit B-4: Original Answer of Defendant Transportation Svc Inc. d/b/a T.S.I., filed February 24, 2016.

Exhibit B-5: Original Answer of Juan Diego Hernandez, filed February 24, 2016.

- *Exhibit C:* A separately signed certificate of interested persons that complies with Local Rule 3.2(e).

11. A copy of this Notice of Removal is attached to the Notice of Filing of Notice of Removal filed with the 354th Judicial District Court, Hunt County, Texas, as required by 28 U.S.C. § 1446(d). Defendants will serve and certify service of copies of this Notice of Removal to Plaintiffs as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants respectfully request the above-entitled action now pending in the 354th Judicial District Court, Hunt County, Texas, be removed to the United States District Court for the Northern District of Texas, Dallas Division, and that said Court assume full jurisdiction over the cause herein as provided by law.

Respectfully submitted,

By: s/ John W. Greene
John W. Greene
Texas Bar No. 08391520
Emily A. Quillen
Texas Bar No. 24045624

SCOPELITIS, GARVIN, LIGHT,
HANSON & FEARY, P.C.

801 Cherry Street, Suite 1075
Fort Worth, Texas 76102
Tel: (817) 869-1700
Fax: (817) 878-9472
jgreene@scopelitis.com
equillen@scopelitis.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

On March 10, 2016, I electronically submitted the foregoing document with the clerk of the court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel of record listed below electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

 X Electronic Service
 Certified Mail, RRR
 Regular First-Class Mail
 Facsimile

J. Martin Futrell
Jim S. Adler & Associates
The Tower at City Place, Lock Box 40
2711 N. Haskell Avenue, Suite 2500
Dallas, TX 75204-2887

s/ Emily A. Quillen
Emily A. Quillen

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